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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,249	08/06/2003	Donald C. Roe	8556C	9458

27752 7590 11/15/2005

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EXAMINER
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BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/635,249	<b>Applicant(s)</b> ROE ET AL.	
	<b>Examiner</b> Michael G. Bogart	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-20 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-6 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

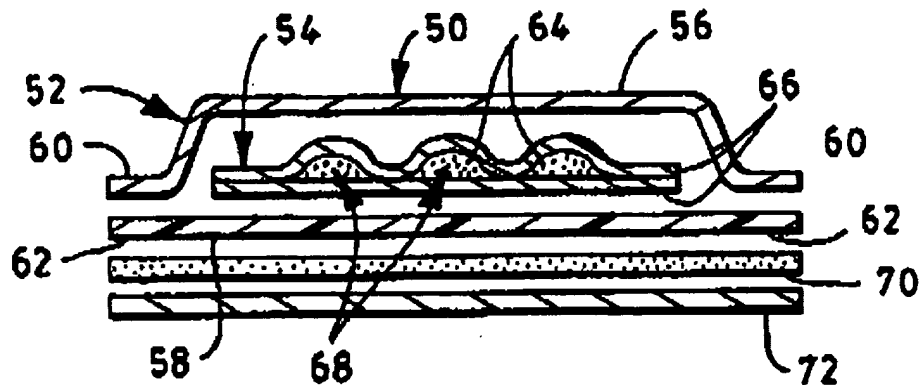
The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 4-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Glaug *et al.* (US 5,702,376 A).

Regarding claim 1, Glaug *et al.* teach a wearable article (20) worn about the lower torso of a wearer, the wearable article (20) comprising a temperature change element (22, 50) including a permeable layer (56) an impermeable layer (58) disposed in a face-to-face arrangement with the permeable layer (56), and a temperature change substance (64) interposed between the permeable layer (56) and the impermeable layer (58), wherein urine deposited onto the temperature change element (22, 50) can penetrate through the upper permeable layer (72) in a z direction to the lower impermeable layer (72) and wherein the impermeable layer (72) prevents urine from passing completely through the temperature change element (22) in the z direction and supports the movement of urine in an x-y plane to wet the temperature change substance (64)(col. 7, lines 16-59; col. 8, lines 21-36)(see figure 3, below).



# FIG. 3

Regarding claim 2 Glaug *et al.* teach that the temperature change substance (64) includes an endothermic salt (col. 9, lines 46-61).

Regarding claim 4, Glaug *et al.* teach that the temperature change element (22, 50) comprises a multiplicity of compartments (68) and the temperature change substance (64) is disposed in each of the compartments (68)(figure 3).

Regarding claim 5, Glaug *et al.* teach that the temperature change element (22, 50) comprises a multiplicity of fluid channels disposed parallel and between the compartments (68)(figure 3).

Regarding claim 6, Glaug *et al.* teach that the upper permeable layer (56) faces the body of a wearer (figure 3).

## ***Response to Arguments***

Applicant's arguments, see Remarks, filed 26 September 2005, with respect to the rejection(s) of claim(s) 1, 2 and 4-8 under Brunner *et al.* have been fully considered and are

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persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Glaug *et al.*

***Allowable Subject Matter***

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 3, the most relevant art of record, Glaug *et al.*, teaches a wearable article comprising a temperature change element having a permeable top layer and a impermeable bottom layer, the two layers containing a temperature change substance therebetween. Glaug *et al.* do not teach or fairly suggest that the temperature change element is elastically foreshortened.

Regarding claims 7-20, Glaug *et al.* teach a permeable top layer and an impermeable bottom layer. The two layers enclose a temperature change element therebetween. These layers function as the topsheet and backsheet of an absorbent article. The reference does not disclose or fairly suggest a temperature change element having a permeable upper sheet and impermeable bottom sheet, the two sheets enclosing a temperature change substance, *the temperature change element being disposed on the topsheet of the absorbent article.*

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
9 November 2005